

Instrument prepared by:

**VIRGINIA GAS AND OIL BOARD**

Order recorded under:

**CODE OF VIRGINIA  
§ 45.1-361.26****VIRGINIA:****BEFORE THE GAS AND OIL BOARD****APPLICANTS:**

CNX Gas Company LLC on behalf of Hurt McGuire Land Trust and CNX Gas Company LLC. and Hubbard Osborne.

**DOCKET NO.****98-0324-0639-01****RELIEF SOUGHT:**

**Issuance:** A Supplemental Order for Disbursement of Escrowed Funds  
**Action:** Amending Prior Orders Affecting Drilling V-37,  
Tracts 3B, 3C, AND 3E.  
 (Referenced herein as "the Subject Drilling Unit")

**Location:** Buchanan County, Virginia

**Action Details:**

- (1) To provide a calculation of funds, Unit Operator has deposited into the Escrow Account for Drilling Unit V-37 by Tract Subaccounts;
- (2) To provide each applicant, in simple terms, a complete month over month Royalty Accounting of unit production, costs, taxes and proceeds, depicting variables used in the calculation of royalty payments to the unit escrow account.
- (3) To disburse unit funds to the Applicants, in accordance with their Unit Ownership Interests relative to those funds deposited by the Unit Operator into Subject Drilling

**REPORT OF THE BOARD****FINDINGS AND ORDER**

1. **Hearing Date and Place:** This matter came on for final hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on March 16, 2010 at the Russell County Government Complex, Conference Center, and 139 Highland Drive, Lebanon, VA.
2. **Appearances:** Mark A. Swartz, Esq. SWARTS Law Offices PLLC appeared for the Unit Operator; and Sharon M.B. Pigeon, Assistant Attorney General, was present to advise the Board.
3. **Jurisdiction and Notice:** Pursuant to Va. Code §§ 45.1-361.1 *et seq.*, and in particular Va. Code §§ 45.1-361.21 and 45.1-361.22, the Board finds that it has jurisdiction over the establishment and maintenance of an escrow account, with tract subaccounts, for each of the coalbed methane gas drilling units established by the Board through its field rules that are subject to a Board pooling order. Further, the Unit Operator is required to deposit, as applicable, those funds specified in Va. Code § 45.1-361.21.D., 45.1-361.22.A.2, 45.1-361.22.A.3 and 45.1-361.22.A.4 into the applicable escrow tract subaccounts. The Board finds that: (1) while it **does not** have jurisdiction to resolve conflicting claims to the ownership of the Coalbed Methane Gas produced by the Unit Operator from wells located on Subject Drilling Unit, and (2) while it **does not** have jurisdiction to interpret agreements by and between the Gas owners/claimants and/or the Unit Operators or to abridge or contravene the provisions of such agreements, (3) pursuant to Va. Code § 45.1-361.22.A.5, **the Board does have jurisdiction and authority to disburse funds from the Escrow Account** provided the Board has been provided with a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between the conflicting claimants or an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein.

4. **Prior Proceedings:**

- 4.1. (a) On March 24, 1998, the Board executed its order pooling interests in the Subject Drilling Unit for the production of occluded natural gas produced from coalbeds and rock strata associated therewith (herein "Gas") in accordance with the provisions of Va. Code SS 45.1-361.21 and 45.1-361.22 (herein "Pooling Order"). The Pooling Order was filed with the Clerk of the Circuit Court of Buchanan County on June 5, 1998 in Deed Book 477 at Page 123. On September 2, 1998 the Board executed its Supplemental Order Regarding Elections which was filed with the Clerk in Deed Book 481 at Page 151 (hereafter all orders are collectively referred to as the "Pooling Order").
- 4.2 To the extent claims to the Gas were in conflict, pursuant to Va. Code S 45.1-361-22 payments attributable to said conflicting claims were ordered deposited by the Unit Operator into the escrow account established by the Pooling Orders (herein "Escrow Account"). According to the Pooling Orders and testimony, the coal estate ownership interests of Hurt McGuire Land Trust and the gas ownership interests of CNX Gas Company LLC in Tracts 3B and 3C plus Hubbard Osborne in Tract 3E in the Subject Drilling Unit were in conflict and became subject to the escrow requirements of the Pooling Order. The gas ownership estate of Winfred "Mack" Osborne in Tract 3A is not being disbursed but will be researched based on testimony by Counsel Peter Glubiak during the March 16, 2010 Board hearings.
- 4.3 The Unit Operator's Miscellaneous Petition regarding Tracts 3B, 3C and 3E, a copy of which is attached to and made a part hereof, states under oath that Hurt McGuire Land Trust and the Applicants have entered into an agreement with regards to VGOB Tracts 3B, 3C and 3E and that by the terms of the agreements, Hurt McGuire Land Trust has entered into a split agreement regarding these tracts and escrow regarding these individual conflicting claims detailed herein, is no longer required for these parties.
- 4.4 The Unit Operator gave notice to Hurt McGuire Land Trust and the applicants that the Board would consider its disbursement authorization at its hearing on March 16, 2010 and consider whether to: (1) amend the Pooling Order to provide for the disbursement a portion of funds on deposit in the Escrow Account attributable to Tracts 3B, 3C and 3E identified in the attached miscellaneous petition (2) delete the requirement that the Unit Operator place future royalties attributable to said Tracts 3B, 3C and 3E, the interests of Applicants identified in the miscellaneous petition in the Escrow Account, and (3) continue the escrow account under this docket number because there are other parties under this order subject to continued payments in the escrow.
- 4.5 The Unit Operator filed the attached accounting for Subject Drilling Unit's Escrow Account with the Board ("Accounting").

5. **Findings:**

5.1. Va. Code 45.1-361.22.5 provides:

*The Board shall order payment of principal and accrued interests, less escrow account fees, from the escrow account to conflicting claimants within thirty days of receipt of notification of (i) a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between them or (ii) an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein. The amount to be paid to the conflicting claimants shall be determined based on the percentage of ownership interest of the conflicting claimants as shown in the operator's supplemental filing made part of the pooling order that established the escrow account, the operator's records of deposits attributable to those tracts for which funds are being requested, and the records of the escrow account for the coalbed methane gas drilling unit. The interests of any cotenants who have not entered into an agreement shall remain in the escrow account.*

5.2 Applicant has certified and represented to the Board that:

- (1) Hurt McGuire Land Trust and CNX Gas Company LLC and Hubbard Osborne are the owners of the coal or gas acreage estate underlying a portion of VGOB Tracts 3B, 3C and 3E of the Subject Drilling Unit;
- (2) Net interests attributable and to be disbursed to Applicants are shown in Table 1,

			Disbursed		Total	
<b>Table 1</b>						
Item	Tract	Disbursement Table				
		Totals			12.42000	
	Hurt McGuire Land Trust		5.10			
1	Hurt McGuire Land Trust C/o Charles Green / PO Box 1067 / Bluefield, VA 24605		1	5.10000	This disbursement was withheld by the Board due to an objection by Counsel Peter Glubiak on behalf of Mack Osborne stating the split agreement is being contested.	
2	Winfred "Mack" Osborne / 3375 Osborne Mountain Road / Raven VA 24639		1	5.10000		
	Hurt McGuire Land Trust		2.74			
3	Hurt McGuire Land Trust C/o Charles Green / PO Box 1067 / Bluefield, VA 24605		1	2.74000	50.0%	1.370 11.0306%
4	CNX Gas Company LLC / 2481 John Nash Blvd / Bluefield, WV 24701		1	2.74000	50.0%	1.37000 11.0306%
	Hurt McGuire Land Trust		0.22			
5	Hurt McGuire Land Trust C/o Charles Green / PO Box 1067 / Bluefield, VA 24605		1	0.22000	50.0%	0.110 0.8857%
6	CNX Gas Company LLC / 2481 John Nash Blvd / Bluefield, WV 24701		1	0.22000	50.0%	0.11000 0.8857%
	Hurt McGuire Land Trust		3.52			
7	Hurt McGuire Land Trust C/o Charles Green / PO Box 1067 / Bluefield, VA 24605		1	3.52000	50.0%	1.760 14.1707%
8	Hubbard Osborne / 3195 Osborne Mountain Road / Raven, VA 24639		1	3.52000	50.0%	1.76000 14.1707%

## 6. Relief Granted:

For the reasons set forth in Paragraph 4 and 5 above, and based upon the Accounting and Table 1 above, the Escrow Agent is ordered to, within 10 days of receipt of this executed order to disburse funds for the unit and applicants detailed in Table 1 above.

Exhibit E to the Pooling Order, showing owners subject to escrow, is deleted and replaced with the Exhibit E attached to this order. Further, the Supplemental Order filed in this cause is hereby modified to delete the requirement that payments attributable to the conflicting coalbed methane gas ownership interests of those applicants indicated in Table 1 be deposited by the Unit Operator into the Escrow Account, and, because there are other owners subject to escrow under the Supplemental Order, the Escrow Agent is directed to continue the Escrow Account for Subject Drilling Unit. To the extent not specifically granted herein, any other or further relief is denied.

## 7. Conclusion:

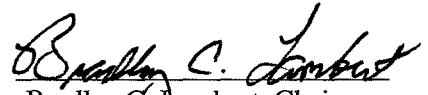
Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and **IT IS SO ORDERED.**

## 8. Appeals:

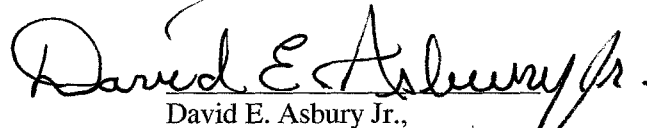
Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated by the State Corporation Commission is a party in such action, the court shall hear such appeal de novo.

9. **Effective Date:** This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 10 day of May, 2010 by a majority of the Virginia Gas and Oil Board.

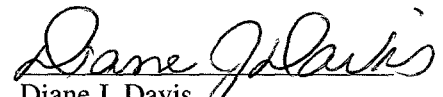
  
Bradley C. Lambert, Chairman

DONE AND PERFORMED this 10 day of May, 2010 by an Order of this Board.

  
David E. Asbury Jr.,  
Principal Executive to the Staff  
Virginia Gas and Oil Board

**COMMONWEALTH OF VIRGINIA )  
COUNTY OF WASHINGTON**

Acknowledged on this <sup>Russell</sup> 10<sup>th</sup> day of May, 2010, personally before me a notary public in and for the Commonwealth of Virginia, appeared **Bradley C. Lambert**, being duly sworn did depose and say that he is the Chairman of the Virginia Gas and Oil Board and **David E. Asbury Jr.**, being duly sworn did depose and say that he is Principal Executive to the Staff of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.

  
Diane J. Davis  
Notary Public #174394

My commission expires: 09 / 30 / 2013



BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL  
DOCKET NO: VGOB 98-0324-0639-01

RELIEF SOUGHT: (1) DISBURSEMENT FROM  
ESCROW REGARDING TRACT(S) 3A, 3B, 3C, 3E  
(2) AND AUTHORIZATION FOR DIRECT  
PAYMENT OF ROYALTIES

HEARING DATE: March 16, 2010

DRILLING UNIT: V-37

BUCHANAN COUNTY, VIRGINIA

MISCELLANEOUS PETITION

1. **Petitioner and its counsel:** Petitioner is CNX Gas Company LLC, 2481 John Nash Boulevard, Bluefield, West Virginia 24701, 304/323-6500. Petitioner's counsel is Mark A. Swartz, **SWARTZ LAW OFFICES, PLLC.**, 601 Sixth Avenue, Suite 201, P.O. Box 1808, St. Albans, WV 25177-1808.

2. **Relief sought:** (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent(s) attributable to Tract(s) 3A, 3B, 3C, 3E as depicted upon the annexed Exhibit A; and (2) authorization to begin paying royalties directly to the parties to the royalty split between Hurt McGuire Land Trust and Winfred "Mack" Osborne; Hurt McGuire Land Trust and CNX Gas Company, LLC (Pocahontas Gas Partnership); Hurt McGuire Land Trust and CNX Gas Company, LLC (Consolidation Coal Company); Hurt McGuire Land Trust and Hubbard Osborne

3. **Legal Authority:** Va. Code Ann. § 45.1-361.1 et seq., 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.

4. **Type of well(s):** Coalbed methane.

5. **Factual basis for relief requested:** Hurt McGuire Land Trust and Winfred "Mack" Osborne; Hurt McGuire Land Trust and CNX Gas Company, LLC (Pocahontas Gas Partnership); Hurt McGuire Land Trust and CNX Gas Company, LLC (Consolidation Coal Company); Hurt McGuire Land Trust and Hubbard Osborne have entered into royalty split agreement(s). Said royalty split agreement allows the Applicant and Designated Operator to pay royalties directly to the persons identified in Exhibit EE annexed hereto and the annexed Exhibit A, further, specifies how said royalties are to be divided and paid.

6. **Attestation:** The foregoing Petition to the best of my knowledge, information, and belief is true and correct.

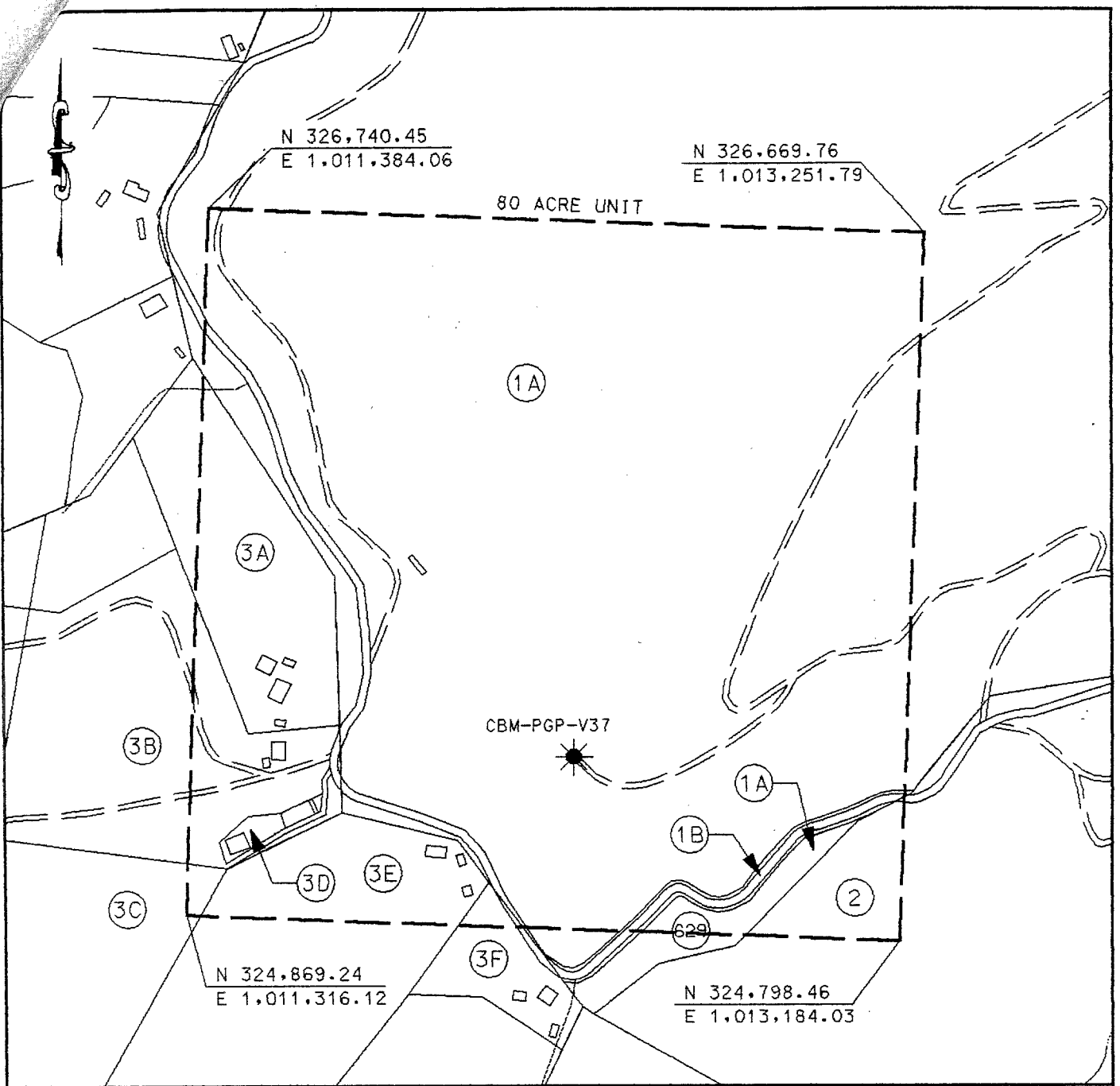
CNX GAS COMPANY LLC  
BY ITS PROFESSIONAL MANAGER  
CNX GAS COMPANY LLC, PETITIONER

By: 

Anita D. Duty  
Pooling Supervisor  
CNX Land Resources, Inc.  
2481 John Nash Blvd.  
Bluefield, West Virginia 24701

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Objection to disbursement of 3A by P. Glubuk.  
Board approved disbursement for 3B, 3C, and 3E



### LEGEND

↖ TRACT LAND HOOK

[2] TRACT LAND ID'S

EXHIBIT A  
OAKWOOD FIELD UNIT V-37  
FORCE POOLING  
VGOB-98-0324-0638

Company Pocahontas Gas Partnership Well Name and Number UNIT V37  
Tract No. \_\_\_\_\_ Elevation \_\_\_\_\_ Quadrangle Keen Mountain  
County Buchanan District Garden Scale: 1" = 400' Date: 2/3/98  
This plat is a new plat X ; an updated plat \_\_\_\_\_ ; or a final plat \_\_\_\_\_

Form DGO-GO-7  
Rev. 9/91

*Charles D. Morgan*  
Licensed Professional Engineer or Licensed Land Surveyor

10073  
(Affix Seal)

# **POCAHONTAS GAS PARTNERSHIP**

## **UNIT V-37**

### **Tract Identification**

- 1A. Coal Mountain Mining . Tr 26 - Fee  
Consolidation Coal Co. - Below drainage coal Leased  
United Coal Company - Above drainage coal Leased  
Pocahontas Gas Partnership - Oil & Gas Lessee  
Pocahontas Gas Partnership - CBM Lessee  
65.62 acres 82.0250%
- 1B. Virginia Department of Transportation - Surface
2. Commonwealth Coal Co. Tr 2 - Surface, Coal, Oil & Gas  
Consolidation Coal Co. - Below drainage coal Leased  
United Coal Company - Above drainage coal Leased  
Pocahontas Gas Partnership - Oil & Gas Lessee  
Pocahontas Gas Partnership - CBM Lessee  
1.96 acres 2.4500%
- 3A. McGuire & Hurt Heirs - Coal  
Consolidation Coal Co. - Below drainage coal Leased  
United Coal Company - Above drainage coal Leased  
Pocahontas Gas Partnership - CBM Lessee  
Mack Osborne - Surface, Oil & Gas  
5.10 acres 6.3750%
- 3B. McGuire & Hurt Heirs - Coal  
Consolidation Coal Co. - Below drainage coal Leased  
United Coal Company - Above drainage coal Leased  
Pocahontas Gas Partnership - CBM Lessee  
Pocahontas Gas Partnership - Surface, Oil & Gas  
2.74 acres 3.4250%
- 3C. McGuire & Hurt Heirs - Coal  
Consolidation Coal Co. - Below drainage coal Leased  
United Coal Company - Above drainage coal Leased  
Pocahontas Gas Partnership - CBM Lessee  
Consolidation Coal Co. - Surface, Oil & Gas  
0.22 acres 0.2750%
- 3D. McGuire & Hurt Heirs - Coal  
Consolidation Coal Co. - Below drainage coal Leased  
United Coal Company - Above drainage coal Leased  
Pocahontas Gas Partnership - CBM Lessee  
Mountain Top Pentecostal Church - Surface, Oil & Gas  
0.62 acres 0.7750%

# **POCAHONTAS GAS PARTNERSHIP**

## **UNIT V-37**

### **Tract Identification**

- 3E.      McGuire & Hurt Heirs - Coal  
         Consolidation Coal Co. - Below drainage coal Leased  
         United Coal Company - Above drainage coal Leased  
         Pocahontas Gas Partnership - CBM Lessee  
         Hubbard Osborne - Surface, Oil & Gas  
         3.52 acres                      4.4000%
- 3F.      McGuire & Hurt Heirs - Coal  
         Consolidation Coal Co. - Below drainage coal Leased  
         United Coal Company - Above drainage coal Leased  
         Pocahontas Gas Partnership - CBM Lessee  
         Thurman Burke - Surface, Oil & Gas  
         0.22 acres                      0.2750%



Exhibit E  
Unit V-37  
Docket # VGOB-98-0324-0639-01  
List of Conflicting Owners/Claimants that require escrow

		Acres in Unit	Percent of Unit	Division of Interest in	
				1 Right 10.3146%	2 Right 2.0992%
<hr/>					
<b><u>Tract #3D, 0.62 acres</u></b>					
<b><u>COAL OWNERSHIP</u></b>					
(1)	Hurt McGuire Land Trust PO Box 1067 Bluefield, VA 24605-4067	0.62 acres	0.77500%	0.07994%	0.01627%
<b><u>OIL &amp; GAS OWNERSHIP</u></b>					
(1)	Mountain Top Pentecostal Church Star Rt. Box 47 Raven, VA 24639	0.62 acres	0.77500%	0.07994%	0.01627%
<b><u>Tract #3F, 0.22 acres</u></b>					
<b><u>COAL OWNERSHIP</u></b>					
(1)	Hurt McGuire Land Trust PO Box 1067 Bluefield, VA 24605-4067	0.22 acres	0.27500%	0.02837%	0.00577%
<b><u>OIL &amp; GAS OWNERSHIP</u></b>					
(1)	Thurman Burke Star Rt. Box 87 Raven, VA 24639	0.22 acres	0.27500%	0.02837%	0.00577%

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Exhibit EE  
Unit V-37  
Docket # VGOB-98-0324-0639-01  
List of Conflicting Owners/Claimants with Royalty Split Agreements

	Acres in Unit	Percent of Unit	Division of Interest in		Percent of Escrow
			1 Right 10.3146%	2 Right 2.0992%	
<b><u>Tract #3A, 5.10 acres</u></b>					
<b><u>COAL OWNERSHIP</u></b>					
(1) Hurt McGuire Land Trust c/o Charles Green, Trustee PO Box 1067 Bluefield, VA 24605-4067	5.10 acres	6.37500%	0.65756%	0.13382%	20.5314% <b>HOLD</b>
<b><u>OIL &amp; GAS OWNERSHIP</u></b>					
(1) Winfred "Mack" Osborne 3375 Osborne Mountain Road Raven, VA 24639	5.10 acres	6.37500%	0.65756%	0.13382%	20.5314% <b>HOLD</b>
<b><u>Tract #3B, 2.74 acres</u></b>					
<b><u>COAL OWNERSHIP</u></b>					
(1) Hurt McGuire Land Trust c/o Charles Green, Trustee PO Box 1067 Bluefield, VA 24605-4067	2.74 acres	3.42500%	0.35328%	0.07190%	11.0306%
<b><u>OIL &amp; GAS OWNERSHIP</u></b>					
(1) CNX Gas Company LLC 2481 John Nash Blvd. Bluefield, WV 24701 (Pocahontas Gas Partnership)	2.74 acres	3.42500%	0.35328%	0.07190%	11.0306%
<b><u>Tract #3C, 0.22 acres</u></b>					
<b><u>COAL OWNERSHIP</u></b>					
(1) Hurt McGuire Land Trust c/o Charles Green, Trustee PO Box 1067 Bluefield, VA 24605-4067	0.22 acres	0.27500%	0.02837%	0.00577%	0.8857%
<b><u>OIL &amp; GAS OWNERSHIP</u></b>					
(1) CNX Gas Company LLC 2481 John Nash Blvd. Bluefield, WV 24701 (Consolidation Coal Company)	0.22 acres	0.27500%	0.02837%	0.00577%	0.8857%
<b><u>Tract #3E, 3.52 acres</u></b>					
<b><u>COAL OWNERSHIP</u></b>					
(1) Hurt McGuire Land Trust c/o Charles Green, Trustee PO Box 1067 Bluefield, VA 24605-4067	3.52 acres	4.40000%	0.45384%	0.09236%	14.1707%
<b><u>OIL &amp; GAS OWNERSHIP</u></b>					
(1) Hubbard Osborne 3195 Osborne Mountain Road Raven, VA 24639	3.52 acres	4.40000%	0.45384%	0.09236%	14.1707%

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**Exhibit A**  
**Tract-by-Tract Escrow Calculation**  
**Account Balances as of 12/31/09**

Unit V-37  
 VGOB 98-0324-0639-01  
 Acres Escrowed: 12.420000

Owners	Tract #	Acres	Owners' Percent of Escrow (50%)	Amount Due Owners	Comments
Hurt McGuire - Coal	3A	5.10	20.5314%	\$32,817.58	Attorney for Winifred Osborne, Peter Glubiak, asked the Board to exclude this tract from the Disbursement, pending Legislative Decision. Board approved 3/16/10.
Winifred "Mack" Osborne - O&G			20.5314%	\$32,817.58	
Hurt McGuire - Coal	3B	2.74	11.0306%	\$17,631.40	
CNX Gas Company LLC (Pocahontas Gas Partnership) - O&G			11.0306%	\$17,631.40	
Hurt McGuire - Coal	3C	0.22	0.8857%	\$1,415.66	
CNX Gas Company LLC (Consolidation Coal Company) - O&G			0.8857%	\$1,415.66	
Hurt McGuire - Coal	3E	3.52	14.1707%	\$22,650.56	
Hubbard Osborne			14.1707%	\$22,650.56	

Wells contributing to the escrow account:

V37, V37A, V37B, V37C, V37D, V37H, V37J & V37K

INSTRUMENT #100001389  
 RECORDED IN THE CLERK'S OFFICE OF  
 BUCHANAN COUNTY ON  
 MAY 26, 2010 AT 12:27PM  
 BEVERLY S. TILLER, CLERK  
 RECORDED BY: SLB